

# CRS Report for Congress

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## **Lobbying and Related Reform Proposals: Consideration of Selected Measures, 109<sup>th</sup> Congress**

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# Lobbying and Related Reform Proposals: Consideration of Selected Measures, 109<sup>th</sup> Congress

## Summary

Numerous measures related to the reform of lobbying activities, including lobbying disclosure laws, campaign finance provisions, and congressional ethics and procedural rules have been introduced in the House and Senate in the 109<sup>th</sup> Congress. This report describes action taken on three measures that have received committee consideration and have been subsequently reported either to the House or Senate. These measures are S. 2349, the Legislative Transparency and Accountability Act of 2006, introduced by Senator Trent Lott and reported to the Senate by the Committee on Rules and Administration on February 28, 2006; S. 2128, the Lobbying Transparency and Accountability Act of 2005, introduced by Senator John McCain and reported to the Senate by the Committee on Homeland Security and Governmental Affairs on March 2, 2006; and H.Res. 648, to eliminate floor privileges and access to Member exercise facilities for registered lobbyists who are former Members or officers of the House, introduced by Representative David Dreier and adopted by the House on January 25, 2006.

Floor consideration of S. 2349 was begun in the Senate by unanimous consent on March 6, 2006. During debate, Senator Trent Lott offered S.Amdt. 2907. The amendment was a substitute for S. 2349 consisting of the text of S. 2349, as reported, as Title I, and S. 2128, as reported, as Title II. SA 2907 was adopted by unanimous consent, and was considered a part of the original text of the bill for any further amendments. On March 8, 2006, five other amendments were offered during Senate debate, including two unrelated to lobbying reform: S.Amdt. 2944, offered by Senator Ron Wyden, would require that a Senator publicly disclose a notice of intent to object to proceeding to any measure or matter; and S.Amdt. 2959, offered by Senator Charles Schumer as a second degree amendment to S.Amdt. 2944, related to foreign ownership of U.S. ports. A cloture motion on S. 2349 was presented on March 8 by Senator Bill Frist. Cloture on the bill was not invoked by a vote of 51 - 47 on March 9. Further consideration of S. 2349, as amended, and the amendments that were pending when cloture was voted on, remain pending in the Senate. It has been reported that the Senate could take up consideration of S. 2349, as amended, during the week of March 27.

This report provides a table comparing current law and congressional rules with S. 2349, as amended by the Senate.

For further background and discussion of other lobbying-related proposals, please consult the CRS Current Legislative Issues page on Lobbying, Ethics and Related Procedural Reform at [[http://beta.crs.gov/cli/cli.aspx?PRDS\\_CLI\\_ITEM\\_ID=2405](http://beta.crs.gov/cli/cli.aspx?PRDS_CLI_ITEM_ID=2405)];

This report will be updated to reflect congressional action.

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# Lobbying and Related Reform Proposals: Consideration of Selected Measures, 109<sup>th</sup> Congress

## Introduction

Numerous measures related to the reform of lobbying activities, including lobbying disclosure laws, campaign finance provisions, and congressional ethics and procedural rules have been introduced in the House and Senate in the 109<sup>th</sup> Congress.<sup>1</sup> This report describes action taken on the following three measures that have received committee consideration and have been subsequently reported either to the House or Senate:

- S. 2349, the Legislative Transparency and Accountability Act of 2006, introduced by Senator Trent Lott;
- S. 2128, the Lobbying Transparency and Accountability Act of 2006, introduced by Senator John McCain; and
- H.Res. 648, to eliminate floor privileges and access to Member exercise facilities for registered lobbyists who are former Members or officers of the House, introduced by Representative David Dreier.

Generally, the measures described in this report would amend some or all of the following:

- Lobbying Disclosure Act of 1995 (LDA),<sup>2</sup> as amended by the Lobbying Disclosure Technical Amendments Act of 1998.<sup>3</sup> LDA requires lobbyists who are compensated for their actions, whether an individual or firm, to register and to file semiannual reports of their activities with the Clerk of the House and the Secretary of the Senate.

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<sup>1</sup> See CRS Report RL33065, *Lobbying Reform: Background and Legislative Proposals, 109th Congress*, by R. Eric Petersen, and CRS Report RL33234, *Lobbying Disclosure and Ethics Proposals Related to Lobbying Introduced in the 109th Congress: A Comparative Analysis*, by R. Eric Petersen.

<sup>2</sup> P.L. 104-65, Lobbying Disclosure Act of 1995 (109 Stat. 691, 2 U.S.C. 1601).

<sup>3</sup> P.L. 105-166, Lobbying Disclosure Technical Amendments Act of 1998 (112 Stat. 38, 2 U.S.C. 1601 note).

- 18 U.S.C. 207, which specifies limitations on lobbying activities by former executive branch officials, Members of Congress, and congressional staff.
- Senate Rule XVI, Appropriations and Amendments to General Appropriations Bills.
- Senate Rule XXIII, Privileges of the Floor.
- Senate Rule XXXV, Gifts.
- Senate Rule XXVIII, Conference Committees; reports; open meetings.
- House Rule IV, The Hall of the House.

In the decade since enactment of LDA, concerns have been raised about the capacity of Congress to oversee the activities of professional lobbyists through existing institutional arrangements. The oversight of lobbying, and the transparency intended by congressional rules, LDA, and other related laws may be impaired by the actions of lobbyists and others who seek to participate in public policy activities through the formation of coalitions and associations whose members may not be identifiable, or the use of grassroots campaigns that attempt to mobilize citizens to advance the message of a lobbyist's client. Some lobbying activities have also been linked to campaign finance practices, congressional procedures regarding the acceptance of gifts from lobbyists, and the inclusion of earmarks advocated by lobbyists in legislation.

In the 109<sup>th</sup> Congress, legislative proposals related to lobbying disclosure and related ethics rules focus on external and internal participants in the public policy-making process. External groups include lobbyists, their clients, entities that provide services, such as mass mailing or phone banks, and affiliated political committees that might have a peripheral role in lobbying activities through campaign finance activities. Legislative approaches to address external groups include proposals to amend lobbying disclosure, and in some cases campaign finance laws, to require lobbyists to identify themselves, their clients, and activities on behalf of those clients in a more comprehensive manner than currently required by LDA. Internal groups include executive branch officials, Members of Congress and their staffs, and other legislative branch officials who might interact with lobbyists in the course of their official duties. Legislative proposals addressing internal groups include amendment of House and Senate rules regarding interactions with lobbyists by Members and congressional staff, as well as increased waiting periods on certain types of employment these officials may undertake after they leave office or public service.

## Recent Action

**S. 2349, Senate Consideration.** Floor consideration of S. 2349 was begun in the Senate by unanimous consent on March 6, 2006. During debate, Senator Trent Lott offered S.Amdt. 2907. The amendment was a substitute for S. 2349 consisting of the text of S. 2349, as reported, as Title I, and S. 2128, as reported, as Title II. SA

2907 was adopted by unanimous consent and was considered a part of the original text of the bill for any further amendments.

On March 8, 2006, five other amendments were offered during Senate debate, including the following:

- S.Amdt. 2942, offered by Senator Christopher Dodd. The measure struck language from S. 2349, an exception in the measure that would have allowed lobbyists to provide meals and refreshments to Members of Congress and their staff. S.Amdt. 2942 was adopted by voice vote.
- S.Amdt. 2932, offered by Senator Harry Reid, would require Members of Congress and senior congressional staff to disclose employment negotiations; require review by the Office of Government Ethics of employment negotiations by certain executive branch officials; prohibit wrongfully influencing a private employment entity's employment decisions or practices by a Member of Congress; ban Senators and Senate staff from accepting gifts from lobbyists; prohibit Senators from accepting privately funded travel from certain entities that are affiliated with any group that lobbies Congress; prohibit Senators from accepting travel and accommodations planned, organized, or funded by lobbyists; amend LDA to require registrant to certify that they have not provided any gift, including travel, to a Member or employee of Congress in violation of Senate Rule XXXV; establish civil penalties for making false certifications in connection with congressional travel; establish criminal penalties for failing to comply with LDA; establish the sense of the Senate regarding meetings of conference committees and related procedures; and amend Senate rules to require Senate conferees an opportunity to vote in an open meeting on the full text of any conference report. S.Amdt. 2932 was not adopted by the Senate by a vote of 44-55.
- S.Amdt. 2934, offered by Senator James Inhofe. Unrelated to lobbying issues, the amendment would deny a cost of living increase to any Member of Congress who voted against such increases. The amendment was adopted by a voice vote
- S.Amdt. 2944, offered by Senator Ron Wyden. Unrelated to lobbying issues, the amendment would establish as a standing order of the Senate a requirement that a Senator publicly disclose a notice of intent to object to proceeding to any measure or matter.
- S.Amdt. 2959 was offered by Senator Charles Schumer as a second degree amendment to S.Amdt. 2944. Unrelated to lobbying, the amendment would prohibit any foreign government that recognized the Taliban as the legitimate government of Afghanistan between 1996-2001 from owning, leasing, operating, or managing real

property or facility at a United States port through a company it owns or controls.

A cloture motion on S. 2349 was presented on March 8 by Senator Bill Frist. Cloture on the bill was not invoked by a vote of 51 - 47 on March 9. Further consideration of S. 2349, as amended, and the amendments that were pending when cloture was voted on, remain pending in the Senate. It has been reported that the Senate could take up consideration of S. 2349, as amended, during the week of March 27.<sup>4</sup>

**Table 1** provides a comparison of current law and congressional rules and S. 2349, as amended by the Senate.

## Previous Activity

**S. 2128, Committee Consideration.** On March 2, 2006, the Senate Committee on Homeland Security and Governmental Affairs marked up S. 2128. Panel Chairman Senator Susan Collins offered an amendment in the nature of a substitute for the entire measure. Seven additional amendments were offered to the substitute during the markup. Amendments adopted by the committee included

- striking language to create an office of public integrity that would have overseen LDA registration and disclosure processes, and conducted certain activities related to congressional ethics investigations. The amendment, which included provisions for the writing of annual reports by the ethics committees of the House and Senate, was offered by Senator George Voinovich, and adopted by the committee by a vote of 10-5;
- the regulation of grassroots lobbying under LDA, offered by Senators Joseph Lieberman and Carl Levin, and adopted by the committee by a vote of 10-6; and
- two measures offered by Senator Norm Coleman. The first would create a commission to strengthen confidence in Congress that would evaluate congressional ethics and lobbying regulations and laws and report its findings to Congress. The second amendment set a 30-day deadline for disclosure by Senators of any privately funded travel they take. Both amendments were adopted by voice vote.

Three amendments were offered and withdrawn after brief debate:

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<sup>4</sup> Kenneth P. Doyle, "As House Bill Introduced, Frist Says Senate Will Return to Reform Debate," *BNA Money and Politics Report*, Mar. 20, 2006, at [<http://pubs.bna.com/ip/bna/mpr.nsf/eh/A0B2N2F8Z2>]; and Tory Newmyer, "Ethics Bill Set for Brief Return Next Monday," *Roll Call*, Mar. 20, 2006, at [[http://www.rollcall.com/issues/51\\_99/news/12614-1.html](http://www.rollcall.com/issues/51_99/news/12614-1.html)].



- an amendment to create a database for foreign lobbyists registered under the Foreign Agents Registration Act of 1938, as amended,<sup>5</sup> offered by Senator Levin;
- an amendment to restrict the activities of some legislative and executive branch officials and assure impartiality in performing official duties, offered by Senator Mark Dayton; and
- an amendment to prohibit the wrongful influencing of a private entity's employment decisions in exchange for political access or favors, offered by Senator Frank Lautenberg.

The committee approved the substitute as amended and approved a motion to report S. 2128 as amended to the Senate by a vote of 13 to 1.

**S. 2349, Committee Consideration.** On February 28, 2006, the Senate Committee on Rules and Administration marked up an original measure, the Legislative Transparency and Accountability Act of 2006. The measure was reported to the Senate by an 18-0 vote. Introduced in the Senate on March 1, and numbered S. 2349, the measure amends Senate rules governing the interaction of Senators and Senate staff with lobbyists, and makes several changes regarding Senate procedures thought to be subject to influence by lobbyists. As reported by the committee, S. 2349 would

- amend Senate rules to prohibit for one year any former Senate senior-level employee<sup>6</sup> who served on the staff of a Senator or of a Senate committee, and who subsequently becomes a registered lobbyist or lobbyist employee for the purpose of influencing legislation, from lobbying any Senator, officer, or employee of the Senate;
- require a Senator to file with the Secretary of the Senate, a statement for public disclosure that he or she is negotiating or has any arrangement concerning prospective employment if a conflict of interest or the appearance of a conflict of interest may exist. The disclosure would be required to file a disclosure within three days of commencing such negotiation or arrangement;
- require a Senator or Senate staff to obtain written certification before undertaking any travel that the trip was not financed in whole, or in part, by a registered lobbyist or foreign agent, and that the provider did not accept funds from a registered lobbyist or foreign agent

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<sup>5</sup> 22 U.S.C. 612.

<sup>6</sup> The proposal would affect Senate staff who worked for a Senator or Senate committee and whose rate of pay was equal to or greater than 75% of the rate of pay of a Senator for more than 60 days in a calendar year. Senators are paid \$165,200. Senate staff who earned more than \$2,382.69 or more per week for more than nine weeks, or \$123,900 per year, would be subject to the post employment restriction proposal.

specifically earmarked for the purpose of financing the travel expenses. A Senator would be required to provide the Select Committee on Ethics a written, detailed itinerary of the trip; and a determination that the trip is primarily educational; consistent with the official duties of the Member, officer, or employee; does not create an appearance of use of public office for private gain; and has a minimal or no recreational component;

- require written approval of privately funded travel from the Select Committee on Ethics. Within 30 days of completing the travel, a Senator, officer, or employee would be required to file with the Select Committee on Ethics and the Secretary of the Senate a description of meetings and events attended during such travel and the names of any registered lobbyist who accompanied them, subject to limited exception on national security grounds. The measure would require that trip information be posted on the Senator's official website not later than 30 days after the completion of the travel;
- amend Senate rules to require the disclosure of noncommercial air travel taken in connection with the duties of the Member, officer, or employee, and file a report with the Secretary of the Senate, including the date, destination, and owner or lessee of the aircraft, the purpose of the trip, and the persons on the trip, except for any person flying the aircraft;
- amend Senate rules to prohibit Senators from accepting gifts from lobbyists. Senators and Senate staff could accept a meal or other food from lobbyists subject to gift rule limits. Any food gift accepted would be subject to public disclosure through the Senator's website;
- amend Senate rules to revoke floor privileges from any former Senator, Senator-elect, Secretary of the Senate, Sergeant at Arms of the Senate, or Speaker of the House who is a registered lobbyist or agent of a foreign principal, or is an employee or representative of any party or organization for the purpose of influencing, the passage, defeat, or amendment of any legislative proposal; and
- require a Senator whose spouse or immediate family member<sup>7</sup> is a registered lobbyist or employees of a registrant under LDA for the purpose of influencing legislation to prohibit all staff employed by the Senator, including staff in personal, committee and leadership offices, from having any official contact with the family member.

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<sup>7</sup> Under the measure, immediate family member would mean the son, daughter, stepson, stepdaughter, son-in-law, daughter-in-law, mother, father, stepmother, stepfather, mother-in-law, father-in-law, brother, sister, stepbrother, or stepsister of the Senator.

S. 2349 would also allow any Senator to make a point of order against consideration of a conference report that includes any matter not committed to the conferees by either House. The point of order could be made and voted on separately for each item alleged to be in violation. The point of order could be waived or suspended by an affirmative vote of three fifths of the Members, duly chosen and sworn. The Senate could appeal a ruling of the Chair on a point of order raised under this measure by a three fifths vote.

Additionally, the measure would amend Senate rules, creating Rule XLIV regarding earmarks. An earmark would be defined as a provision that specifies the identity of a non-federal entity to receive assistance in the form of budget authority; contract authority; loan authority; and other expenditures; or other revenue items, and the amount of the assistance. Before consideration of any bill, amendment or conference report could be in order, a list identifying all earmarks in the measure, along with identification of the Senator(s) who proposed them, and an explanation of the essential governmental purpose for the earmark must be made available, along with any joint statement of managers associated with the measure, to all Senators and made available on the Internet to the general public for at least 24 hours before its consideration. Similarly, S. 2349 would amend Senate rules to require that conference reports be available on the Internet 24 hours before consideration.

The measure would also amend Senate rules to prohibit a Senator from taking or withholding, or threatening to take or withhold an official act, or to influence or offer or threaten to influence the official act of another with the intent to influence on the basis of partisan political affiliation an employment decision or employment practice of any private entity. Finally, S. 2349 would establish the sense of the Senate that any restrictions on legislative branch employees should apply to the executive and judicial branches.

During the markups in both of these committees, several Senators indicated that floor consideration of both measures could begin during the week of March 6, 2006. It has been reported that the provisions of S. 2128 and S. 2349 may be combined in some manner before floor consideration.<sup>8</sup>

**House Action.** On January 31, 2006, Representative David Dreier, Chairman of the Committee on Rules introduced H.Res. 648. On February 1, the House adopted the measure under suspension of the Rules, by a vote of 379 - 50, 1 present. H.Res. 648 amended House Rule IV to deny floor privileges to former Representatives, House officers, parliamentarians or former minority party employees nominated as an elected officer of the House if they: are a registered lobbyist or agent of a foreign principal; have any direct personal or pecuniary interest in any legislative measure pending before the House or reported by a committee; or are employed or represent any entity for the purpose of influencing, the passage, defeat, or amendment of any legislative proposal.

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<sup>8</sup> Martin Kady, II, "Senate Panel Scales Back Lobbying Bill; Floor Action on Two Plans Up Next," *CQ Today*, Mar. 2, 2006, at [<http://cq.com/display.do?docid=2058298&sourcetype=6>].

The measure also amended House Rule IV to deny access to Member exercise facilities to any former Member, officers, or their spouses, who is a registered lobbyist.

**Senate Activity.** On January 25, 2006, the Senate Committee on Homeland Security and Governmental Affairs held a hearing on lobbying proposals, including S. 2128. As introduced, S. 2128 would amend LDA to require the following:

- quarterly, instead of semiannual, filing of lobbying disclosure reports;
- reduction of the thresholds for which registration and disclosure are required from \$5,000 to \$2,500 for a lobbying firm, and from \$20,000 to \$10,000 for an organization whose employees engage in lobbying activities on its own behalf;
- reduction of the increments in which lobbying expenditures may be estimated, from less than \$10,000 to less than \$5,000, or in larger increments, from \$20,000 to \$10,000;
- disclosure by registered lobbyists of all past executive branch and congressional employment;
- electronic filing of lobbyist registrations and disclosure reports filed with the Secretary of the Senate or the Clerk of the House of Representatives;
- establishment and maintenance of lobbying disclosure information in an electronic database that directly links lobbying disclosure information to the information disclosed in reports filed with the FEC under FECA and made available to the public free of charge through the Internet; and
- disclosure of grassroots lobbying communications by paid lobbyists and itemized disclosure of expenditures on grassroots lobbying activities. In the event that a grassroots lobbyist receives or spends \$250,000 or more for grassroots lobbying activities, an additional report must be made within 20 days.

S. 2128 as introduced would have amended LDA to redefine the term “client” as any person or entity that employs a lobbyist to carry out lobbying or grass roots lobbying activities on behalf of that person or entity. The measure required that firms and other entities that are members of coalitions or associations that employ a lobbyist are to be considered clients, along with the coalition or association, if their total contribution related to lobbying activities is greater than \$10,000.

S. 2128 as introduced would have increased the civil penalty for failure to comply with lobbying disclosure requirements up to \$100,000. The measure provided for reviews and semiannual reports by the Comptroller General on activities carried out by the Clerk of the House and the Secretary of the Senate under LDA.

Additionally, the ban on former senior executive personnel, former Members of Congress, and legislative branch personnel preventing them from lobbying the entity in which they previously served would have been extended from one to two years.<sup>9</sup>

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<sup>9</sup> S. 2128 requires a number of other changes to laws and rules governing congressional ethics that are not directly related to lobbying disclosure. These include requiring public disclosure by Members of Congress of employment negotiations and increased disclosure of travel by Members of Congress. The measure also specifies the valuation of tickets to sporting and entertainment events provided to covered executive and legislative branch officials.

**Table 1. Current Law and Senate Rules, and S. 2349 as Amended by the Senate**

| Issue                                   | Current Provisions  | S. 2349, as amended by Senate  |
|---|---|--|
| <b>Definition of Client: Coalitions</b> | LDA, 2 U.S.C. 1602 (2). A “client” is defined as any person or entity that employs and compensates another person to conduct lobbying activities on their behalf. Under LDA, groups that carry out lobbying activities on their own behalf must also register with the Clerk and the Secretary. | Section 217<br>Would further define a client as any person or entity that participates in a substantial way in planning, supervision or control of lobbying activities. Would not require disclosure if a connection between the person or entity and the client is public knowledge, unless the person or entity plans, supervises or controls lobbying activities.   |
| <b>Grassroots Lobbying</b>              | No provisions.  | Section 220<br>Would require reporting of certain paid efforts to stimulate grassroots lobbying that are done on behalf of clients. Further defines “lobbying activities” to “include paid efforts to stimulate grassroots lobbying but that do not include grassroots lobbying.” Defines “paid efforts to stimulate grassroots lobbying” as “any paid attempt in support of lobbying contacts on behalf of a client to influence the general public or segments thereof to contact one or more covered official to urge those officials (or Congress) to take specific action....” Grassroots lobbying firms would be any person or entity “retained by one or more clients in paid efforts to stimulate grassroots lobbying on behalf of such clients.” Requires registration by grassroots lobbying firms not later than 45 days after it is retained by a client. Requires separate itemization by registered lobbyists and registered grassroots lobbying firms of paid efforts to stimulate grassroots lobbying from the total amount of income received for lobbying. Estimates for paid efforts to stimulate grassroots lobbying may be disclosed in increments of less than \$10,000, less than \$25,000, and increments above \$25,000, rounded to the nearest \$20,000. |
| <b>Disclosure Periods</b>               | LDA, 2 U.S.C. 1604. Requires registrants to file LDA disclosure reports semiannually.   | Section 211<br>Would require quarterly disclosure.   |

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| Issue   | Current Provisions  | S. 2349, as amended by Senate   |
|---|---|---|
| <b>Electronic Filing of Lobbying Registration and Disclosure Reports</b>                | Not required under LDA; voluntary for filing with the Secretary of the Senate; and mandatory after January 1, 2006 for filing with the Clerk of the House.  | Section 219<br>Would require electronic filing.   |
| <b>Reporting Thresholds</b>   | LDA, 2 U.S.C. 1603 (a)(3)(A)(i) and (ii). If the total income for matters related to lobbying activities on behalf of a client represented by a lobbying firm exceeds \$5,000, or total expenses in connection with the lobbying activities by an organization whose employees engage in lobbying activities on its own behalf exceeds \$20,000, then registration and disclosure are required. | Section 211<br>Would reduce thresholds to \$2,500 and \$10,000, respectively.   |
| <b>Disclosure of Lobbying Expenses</b>  | LDA, 2 U.S.C. 1604 (c). A good faith estimate, by broad category, of the total amount of lobbying-related income from the client, or expenditures by an organization lobbying in its own behalf, during the semiannual period. Expenditures may be estimated at less than \$10,000 or in increments of \$20,000.  | Section 211<br>Would reduce estimated expense increments for non-grassroots lobbying to less than \$5,000 and \$10,000. Grassroots lobbyists would be subject to disclosure ranges of less than \$10,000, less than \$25,000, and increments above \$25,000, rounded to the nearest \$20,000.   |
| <b>Linking Lobbying Disclosure Information with Federal Election Commission Reports</b> | Not required.   | Section 213<br>Would require establishment and maintenance of lobbying disclosure information in an electronic data base which directly links lobbying disclosure information to the information disclosed in reports filed with the Federal Election Commission under the Federal Election Campaign Act of 1971, and made available to the public free of charge through the Internet. |
| <b>Previous Executive Branch or Legislative Branch Employment</b>                       | LDA 2 U.S.C. 1603. Registrants must disclose whether they have served as a covered legislative branch or executive branch official in the two years preceding their registration.   | Section 214<br>Would require disclosure by registered lobbyists of all past executive branch and congressional employment.  |

| Issue  | Current Provisions  | S. 2349, as amended by Senate  |
|--|---|--|
| <b>Disclosure and Separate Itemization of Grassroots Lobbying Expenses</b> | No provisions.  | Section 220<br>Would require good faith estimates of the proportion of the total amount spent on grassroots lobbying activities, and within that amount, the total amount specifically relating to grassroots lobbying through paid advertising.   |
| <b>Disclosure of Lobbyist Contributions and Payments — Campaigns</b>       | No provisions in LDA. General FECA Requirements in 2 U.S.C. 431-434.  | Section 212<br>Would require registrants and lobbyists to file a report disclosing their name, employer, and the name of each federal candidate or officeholder, leadership PAC, or political party committee to whom a contribution of \$200 or more was made, or for whom a fund-raising event was hosted or otherwise sponsored.  |
| <b>Disclosure of Lobbyist Contributions and Payments — Travel</b>          | No provisions.  | Section 215<br>Would require disclosure within 30 days of travel the name of each covered official for whom a registrant or lobbyist employee provided or arranged any payment or reimbursement for travel, including an itemization of payments or reimbursements provided the purpose and final itinerary of the trip, the names of registrants or employees who were on the trip, the identity of the trip sponsor, and the identity of any person or entity other than the sponsor who provided direct or indirect payment for the travel. |
| <b>Private Aircraft</b>  | Senate Rule XXXVIII, House Rule XXIV<br>Travel on private, corporate aircraft generally must be reimbursed. | Section 107(b). Amends Senate rules to require reporting to the Secretary of the Senate travel by Senators and staff on private, noncommercial corporate jets. Disclosure would include date, destination, owner or lessee of aircraft, purpose of and persons on trip.  |



| Issue   | Current Provisions                               | S. 2349, as amended by Senate   |
|---|--|---|
| <b>Disclosure of Lobbyist Contributions and Payments — Honors</b> | No provisions.                                   | Section 215<br>Would require disclosure of the date, recipient, and amount of funds contributed or arranged by a registrant or registrant employee to pay the costs of; an event to honor or recognize a covered legislative branch official or covered executive branch official; contributions to, or on behalf of, an entity that is named for a covered legislative branch official or covered executive branch official, or to a person or entity in recognition of such official; an entity established, financed, maintained, or controlled by a covered legislative branch official or covered executive branch official, or an entity designated by such official; or to pay the costs of a meeting, retreat, conference or other similar event held by, or for the benefit of one or more covered official. |
| <b>Gifts or Travel Provision by Registered Lobbyists.</b>         | No LDA provisions                                | Section 251<br>Would prohibit a registered lobbyist from making a gift or providing travel to any Member of Congress or their staff.  |
| <b>Penalties for Noncompliance</b>                                | LDA 2 U.S.C. 1606. Civil penalty, up to \$50,000 | Section 216<br>Civil penalty, up to \$100,000   |

| Issue   | Current Provisions   | S. 2349, as amended by Senate   |
|---|--|---|
| <b>Disclosure of Enforcement for Non Compliance</b>   | No provisions.   | <p>Section 218</p> <p>Would require the Clerk and the Secretary to provide semiannual reports to the House Committee on Government Reform and Senate Committee on Homeland Security and Governmental Affairs listing the number of lobbyists and lobbying firms referred to the United States Attorney for the District of Columbia for noncompliance. Would require the United States Attorney for the District of Columbia to report on a semiannual basis the number of enforcement actions and the amount of any fines to the House Committees on Government Reform and the Judiciary, and the Senate committees on Homeland Security and Governmental Affairs and the Judiciary.</p>               |
| <b>Revolving Door Provisions</b>                      | <p>18 U.S.C. 207. Former senior executive personnel, former Members of Congress and some noncongressional legislative branch personnel are prevented from lobbying the entity in which they previously served for one year. Senate Rule XXXVII. Senators are barred from lobbying any Senate component for one year after they leave office. Senior Senate personnel are prevented from lobbying the office or committee in which they previously served for one year.</p> | <p>Section 241</p> <p>Former senior executive personnel, former Members of Congress, senior congressional staff and legislative branch personnel would be prevented from lobbying the entity in which they previously served for two years. Would amend Senate rules to prohibit for one year any former Senate employee who served on the staff of a Senator or of a committee and whose rate of pay was equal to or greater than 75% of the rate of pay of a Senator for more than 60 days in a calendar year, and who subsequently becomes a registered lobbyist or lobbyist employee for the purpose of influencing legislation, from lobbying any Senator, officer, or employee of the Senate.</p> |
| <b>Oversight and Auditing of Lobbying Disclosures</b> | No specific provisions.  | <p>Section 231</p> <p>Would require the Comptroller General to audit annually registrations and reports filed under LDA to determine the extent of compliance by lobbyists and their clients and report annually to Congress by April 1.</p>  |

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| Issue  | Current Provisions   | S. 2349, as amended by Senate   |
|--|--|---|
| <b>Privately Sponsored Travel</b>            | House Rule XXV, Senate Rule XXXV. Lobbyists are prohibited from paying for travel for Members and staff, but may arrange travel and have their clients pay for it with certain restrictions. Firms and other entities may pay travel expenses for Members. Privately owned aircraft may be used for travel. The cost of that travel is valued at the same rate as first-class airfare, which may be different than charter rates or actual cost. Members and staff must disclose the sponsor and costs of privately funded travel. | Section 107a<br>Requires certification to and approval from the Senate Select Committee on Ethics prior to Senators, officers, or employees accepting travel and transportation expenses or reimbursements from a private, nongovernmental source for any officially connected travel. The sponsor of any such trip would be required to certify that the funds did not come from lobbyists. When travel is concluded Senators and staff would be required to file a detailed report. |
| <b>Gifts</b>                                 | House Rule XXV, Senate Rule XXXV.  | Section 106<br>Would amend Senate rules to prohibit Senators from accepting gifts from lobbyists. Would allow Senators and Senate staff to accept a meal or other food from lobbyists subject to gift rule limits. Any food gift accepted would be subject to public disclosure through the Senator's website.  |
| <b>Floor Privileges</b>                      | House Rule IV and Senate Rule XXIII provide floor privileges to former Members of the respective chambers.   | Section 105<br>Would amend Senate rules to revoke floor privileges from any former Senator, Senator-elect, Secretary of the Senate, Sergeant at Arms of the Senate, or Speaker of the House who is a registered lobbyist or agent of a foreign principal, or is an employee or representative of any party or organization for the purpose of influencing, the passage, defeat, or amendment of any legislative proposal.   |
| <b>Disclosure of Employment Negotiations</b> | No provisions.   | Section 109. Amends Senate Rule on conflicts of interest to prohibit Members of the Senate from arranging or negotiating private employment until the Member's successor is elected, unless the Member discloses to the Secretary of the Senate for public release details of such private employment negotiations or arrangements.   |

| Issue  | Current Provisions  | S. 2349, as amended by Senate   |
|--|---|---|
| <b>Ethics Training</b>                                 | No provisions requiring training. Training is provided by the ethics committee of each chamber. | Section 232<br>Would require the Senate Select Committee on Ethics to conduct ongoing training and awareness programs for the Senate, and require new Senators and staff to complete training within 60 days of commencing service or employment. Current Senators and staff would be required to complete training within 120 days of enactment.   |
| <b>Ethics Committees Annual Reports</b>                | No provisions.  | Section 234<br>Would require the ethics panel in each chamber to issue an annual report by January 31 listing the number of allegations received, and their disposition.  |
| <b>Commission to Strengthen Confidence in Congress</b> | No provisions.  | Section 261<br>Would establish a Commission to Strengthen Confidence in Congress. The bipartisan, 10 member commission would be appointed by the majority and minority leadership of each chamber. The commission would be charged with:<br>— evaluating and reporting the effectiveness of current congressional ethics requirements, if penalties are enforced and sufficient, and making recommendations for new penalties;<br>— weighing the need for improved ethical conduct with the need for lawmakers to have access to expertise on public policy issues:<br>— determining whether the current system for enforcing ethics rules and standards of conduct is sufficiently effective and transparent:<br>— determining whether the statutory framework governing lobbying disclosure should be expanded to include additional means of influencing covered officials;<br>— determining whether additional ethical conduct or disclosure standards need to be enacted; and<br>— reporting findings to Congress. |

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| Issue   | Current Provisions | S. 2349, as amended by Senate  |
|---|--------------------|--|
| <b>Out of Scope Matters in Conference Reports</b>     | No provisions.     | <p>Section 102</p> <p>Would allow any Senator to make a point of order against consideration of a conference report that includes any matter not committed to the conferees by either House. The point of order could be made and voted on separately for each item alleged to be in violation. The point of order could be waived or suspended by an affirmative vote of three fifths of the Members, duly chosen and sworn. The Senate could appeal the ruling of the Chair on a point of order raised under this measure by a three fifths vote.</p>  |
| <b>Earmark Reform</b>                                 | No provisions.     | <p>Section 103</p> <p>Would amend Senate rules, creating Rule XLIV regarding earmarks. An earmark would be defined as provision that specifies the identity of a non-federal entity to receive assistance in the form of budget authority; contract authority; loan authority; and other expenditures; or other revenue items, and the amount of the assistance. Before consideration of any bill, amendment or conference report could be in order, a list identifying all earmarks in the measure, along with identification of the Senator(s) who proposed them, and an explanation of the essential governmental purpose for the earmark must be made available, along with any joint statement of managers associated with the measure, to all Senators, and made available on the Internet to the general public for at least 24 hours before its consideration.</p> |
| <b>Conference Reports on the Internet</b>             | No provisions.     | <p>Section 104</p> <p>Would amend Senate Rules to require that conference reports be available to Senators and the public on the Internet 24 hours before consideration.</p>   |
| <b>Official Contact with Family Members Who Lobby</b> | No provisions.     | <p>Section 110</p> <p>Would require a Senator whose spouse or immediate family member is a registered lobbyist or employees of a registrant under LDA for the purpose of influencing legislation to prohibit all staff employed by the Senator, including staff in personal, committee and leadership offices from having any official contact with the family member.</p>   |

| Issue                                | Current Provisions   | S. 2349, as amended by Senate  |
|--------------------------------------|--|--|
| <b>Influencing Hiring Decisions</b>  | No provisions.   | Section 111<br>Would amend Senate rules to prohibit a Senator from taking or withholding, or threatening to take or withhold an official act, or to influence or offer or threaten to influence the official act of another with the intent to influence on the basis of partisan political affiliation an employment decision or employment practice of any private entity. |
| <b>Sense of the Senate</b>           | No provisions.   | Section 112<br>Would establish the sense of the Senate that any restrictions on legislative branch employees should apply to the executive and judicial branches.  |
| <b>Congressional Pay Adjustments</b> | 2 U.S.C. 31. An automatic annual pay adjustment, generally based on a component of the Employment Cost Index, is provided to Members of Congress, unless Congress prohibits or revises the increase by statute | S.Amdt. 2934 to S. 2349<br>Would deny a cost of living increase to any Member of Congress who voted against such increases   |

## Further Resources

### Lobbying

CRS Current Legislative Issues page on Lobbying Disclosure and Ethics Reform, at [[http://beta.crs.gov/cli/cli.aspx?PRDS\\_CLI\\_ITEM\\_ID=2405](http://beta.crs.gov/cli/cli.aspx?PRDS_CLI_ITEM_ID=2405)].

CRS Report RL33326, *Lobbying, Ethics and Related Procedural Reforms: Comparison of Current Provisions of S. 2349 and H.R. 4975*, by Jack Maskell, R. Eric Petersen and Sandy Streeter.

CRS Report RL33065, *Lobbying Reform: Background and Legislative Proposals, 109th Congress*, by R. Eric Petersen.

CRS Report RL33234, *Lobbying Disclosure and Ethics Proposals Related to Lobbying Introduced in the 109th Congress: A Comparative Analysis*, by R. Eric Petersen.

CRS Report RS22226, *Summary and Analysis of Provisions of H.R. 2412, the Special Interest Lobbying and Ethics Accountability Act of 2005*, by Jack Maskell.

CRS Report RS22209, *Executive Lobbying: Statutory Controls*, by Louis Fisher.

CRS Report 96-809, *Lobbying Regulations on Non-Profit Organizations*, by Jack H. Maskell.

CRS Report RS20725, *Lobbyists and Interest Groups: Sources of Information*, by Mari-Jana “M-J” Oboroceanu.

### Congressional Ethics Rules

CRS Report RL33237, *Congressional Gifts and Travel: Proposals in the 109th Congress*, by Mildred Amer.

CRS Report RL33047, *Restrictions on the Acceptance of “Officially Connected” Travel Expenses From Private Sources Under House and Senate Ethics Rules*, by Jack Maskell.

CRS Report 97-875, *“Revolving Door,” Post-Employment Laws for Federal Personnel*, by Jack Maskell.

CRS Report RS22231, *The Acceptance of Gifts of Free Meals by Members of Congress*, by Jack Maskell.

CRS Report RL31126, *Lobbying Congress: An Overview of Legal Provisions and Congressional Ethics Rules*, by Jack Maskell.

## **Congressional Procedures**

CRS Report RL33295, *Comparison of Selected Senate Earmark Reform Proposals*, by Sandy Streeter.

## **Campaign Finance**

Campaign Finance and Regulation of 527 Organizations, at  
[[http://beta.crs.gov/cli/cli.aspx?PRDS\\_CLI\\_ITEM\\_ID=529](http://beta.crs.gov/cli/cli.aspx?PRDS_CLI_ITEM_ID=529)]

CRS Report RL32954, *527 Political Organizations: Legislation in the 109th Congress*, by Joseph E. Cantor and Erika Lunder.